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WEST VALLEY CITY, UTAH

ORDINANCE NO. _____

Draft Date: 6/16/2008; 12/18/2008; 5/5/2009
Date Adopted: _____
Date Effective: _____

AN ORDINANCE ENACTING SECTION 5-2-108 AND
AMENDING SECTIONS 5-2-102, 5-3-103, 5-3-104, 5-3-105, 5-
3-111, 5-3-113, 5-3-114 AND 5-3-115 OF TITLE 5 OF THE
WEST VALLEY MUNICIPAL CODE REGARDING
PURCHASING PROVISIONS AND ELECTRONIC BIDDING.

WHEREAS, Title 5 is the Procurement Code; and

WHEREAS, West Valley City desires to enact Section 5-2-108 and amend Sections 5-2-102, 5-2-108, 5-3-103, 5-3-104, 5-3-105, 5-3-111, 5-3-113, 5-3-114 and 5-3-115 of Title 5 of the West Valley City Municipal Code in order to comply with state law by enacting purchasing provisions that assist the City in making purchases in the most advantageous manner; and

WHEREAS, the state of Utah and state law have authorized the use of electronic bidding mechanisms that facilitate a more efficient method of purchasing and this ordinance authorizes its use; and

WHEREAS, the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to amend Title 5 of the West Valley City Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of West Valley City, Utah, as follows:

Section 1. Repealer. Any provision of the West Valley City Municipal Code found to be in conflict with this Ordinance is hereby repealed.

Section 2. Enactment. Section 5-2-108 of Title 5 of the West Valley City Municipal Code is hereby enacted to read as follows:

CHAPTER 5-2
GENERAL PROVISIONS

Sections:
5-2-101. Purchasing Agents.

5-2-102. Authority to Use Pre-approved Forms /Authority of City Manager to Sign Some
Items.
5-2-103. Bid Evaluation.
5-2-104. Responsibility of Bidders and Offerors.
5-2-105. Right to Inspect Facility and Audit Records.
5-2-106. Reporting of Anticompetitive Practices.
5-2-107. Pre-qualification.
5-2-108. City Provider Preference.

5-2-108. CITY PROVIDER PREFERENCE.

The City may include in any bid that it will give a preference to any provider physically located within City limits. The amount of such preference shall be determined by the City and included in all bid documents. Additionally, a purchase may be made without a bid, from any provider physically located within City limits that is able to provide a product or service at an amount that is within 1% of the State Bid amount for that product or service.

Section 3. Amendment. Sections 5-2-102, 5-3-103, 5-3-104, 5-3-105, 5-3-111, 5-3-113, 5-3-114 and 5-3-115 of Title 5 of the West Valley City Municipal Code is hereby amended to read as follows:

5-2-102. AUTHORITY TO USE PRE-APPROVED FORMS / AUTHORITY OF CITY MANAGER TO SIGN SOME ITEMS.

(1) The City Council may authorize the City Manager to sign any agreement, purchase order, obligation, form, or other document that has been approved as to form by the City Council. In addition, the City Manager or their designee has the authority to sign all documents necessary to allow the City to make Minimal (Section 5-3-103) and Small Purchases (Section 5-3-104). Any document signed by the City Manager pursuant to this Section must also be countersigned by a facsimile signature of the Mayor and attested by the City Recorder.

(2) Based upon a determination by the Purchasing Agent, the City may utilize an electronic bid process, so long as such process provides for substantially the same purchasing protection provided herein.

5-3-103. MINIMAL PURCHASES.

(2) Applicability. This Section applies to the purchase of goods, supplies, materials, equipment or services, having a total value of not more than ~~\$3,000.00~~ \$5,000.00. So long as funds used for such purchases are part of the approved annual budget for the department, City Council approval of Minimal Purchases is not required.

5-3-104. SMALL PURCHASES.

(2) Applicability. This Section applies to the purchase of goods, supplies, materials, equipment or services, having a total value of not more than ~~\$25,000.00~~ \$30,000.00, when such

purchase is approved in writing in advance by the Department Head and the City Manager. So long as funds being used are available under the approved budget, City Council approval of Small Purchases is not required.

5-3-105. STATE CONTRACT PURCHASING.

Because an appropriate bid procedure has already been completed, any item that is a State contract item may be purchased without following the bid requirements set forth in this Section. However, purchases over ~~\$25,000.00~~ **\$30,000.00** will require formal City Council action and approval.

5-3-111. VERY SPECIALIZED OR CONFIDENTIAL SERVICES.

(1) Definition. Without limitation, the need to procure very specialized services, or services as a part of confidential matters, may arise when:

- (a) The City's needs are of a specific and highly specialized nature, and a general solicitation would not be beneficial to produce a Person who can meet those needs because of the scarcity of service providers, nature of the expertise needed, conflicts of interest, or other reason.
- (b) The services relate to confidential matters, and a solicitation process might disclose or result in adverse consequences with respect to information that is private or confidential. These matters can arise in connection with legal issues, security issues, undercover police activities, and similar matters.
- (c) **The product or service is only available on a very limited or one-time only basis.**

5-3-113. CLASS "C" ROAD IMPROVEMENT PROJECTS.

All Class "C" road improvements, construction, repair and maintenance shall be procured as required ~~pursuant to Sections 72-6-107, 108 and 109 of~~ **by** the Utah Code Annotated, 1953 as amended, which are hereby adopted by reference.

5-3-114. DESIGN BUILD TRANSPORTATION PROJECT CONTRACTS.

A design-build transportation project that has an estimated cost of at least \$50,000,000 shall be procured as required ~~pursuant to Section 63-56-36.1 of the~~ **by** Utah Code Annotated, 1953 as amended which is hereby adopted by reference.

101 **5-3-115. PUBLIC IMPROVEMENTS. BUILDING IMPROVEMENTS AND PUBLIC**
102 **WORKS PROJECTS.**

103 ~~Any new capital improvement to be paid for out of the general fund in any amount exceeding~~
104 ~~\$25,000 shall be procured pursuant to Section 10-7-20 of the Utah Code Annotated, 1953 as~~
105 ~~amended. Any Building Improvements or Public Works Project shall be procured pursuant to~~
106 ~~Section 11-39-101 et seq of the Utah code Annotated, 1953 as amended.~~

107 **Section 4. Severability.** If any provision of this Ordinance is declared to be invalid by a
108 court of competent jurisdiction, the remainder shall not be affected thereby.

109 **Section 5. Effective Date.** This Ordinance shall take effect immediately upon posting in
110 the manner required by law.

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112 **PASSED and APPROVED** this _____ day of _____, 2008.

113
114 WEST VALLEY CITY

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119 MAYOR

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121 ATTEST:

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125 _____
126 CITY RECORDER